

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Wreford Johnson)
 Ward 53, Block 26, Parcel 9)
 Residential Property) Shelby County
 Tax year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$7,100	\$50,600	\$57,700	\$14,425

On July 20, 2006, the property owner filed an appeal with the State Board of Equalization ("State Board"). The property in question was not appealed to the Shelby County Board of Equalization ("county board") during its regular session in tax year 2006.

The undersigned administrative judge conducted a hearing of this matter on December 14, 2006 in Memphis. The appellant, Wreford Johnson, represented himself at the hearing. Legal advisor John Zelinka and staff appraiser Ronald Palmer appeared on behalf of the Shelby County Assessor of Property ("Assessor").

After addressing the preliminary issue of whether the State Board has jurisdiction, the administrative judge took that question under advisement and heard testimony concerning the value of the property in question.

Findings of Fact and Conclusions of Law

This appeal involves a 963-square-foot rental house located at 1455 Zelin in Memphis. Mr. Johnson, who owns a number of other rental properties in the area, purchased this property from the executor of the estate of Eunice K. Berry on October 25, 2005 for \$42,000.¹ According to his testimony, the property had been listed for sale through a real estate broker.

In a letter to the State Board dated July 19, 2006, Mr. Johnson explained his failure to appeal the assessment of the subject property to the county board as follows:

Back in February of 2006 I contacted The Shelby County Board of Equalization to find out when I may submit an appeal request for this property and they informed me that I could turn in the appeal forms between May 1st and July 31st. On July 10, 06 I attempted to submit my appeal only to learn that the deadline was June 30th. When I conveyed to them the information that I was given in February by their office, they denied that any one would have told me that.

¹The warranty deed indicates that Ms. Berry died “on or about June 6, 2005.”

At the hearing, however, Mr. Johnson was uncertain whether there had been “a misunderstanding on their part or on my part.” He acknowledged that the county board office might have thought his inquiry concerned the deadline for filing an appeal for tax year 2005 (a year of reappraisal in Shelby County).

Generally, except in the event of insufficient notice of a change in classification and/or valuation, a property assessment which is not appealed to the county board of equalization during its regular annual session becomes final. See Tenn. Code Ann. sections 67-5-1401 and 67-5-1412(b)(1). However, as amended by the General Assembly in 1991, Tenn. Code Ann. section 67-5-1412(e) affords a taxpayer the opportunity for a hearing to demonstrate “reasonable cause” for failure to appeal the property in question to the county board of equalization (or for failure to appeal a county board of equalization’s decision to the State Board in a timely manner). In the appeal of Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992, Final Decision and Order, August 11, 1994), the Assessment Appeals Commission declared that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the “reasonable cause” provisions to waive these requirements except where the failure to meet them is due to **illness or other circumstance beyond the taxpayer’s control**...[Emphasis added.]

Id. at pp. 2—3.

Respectfully, the administrative judge is not persuaded that the taxpayer has met the above criterion in this case. If the proof had clearly established that Mr. Johnson received inaccurate or misleading information from the county board office concerning his appeal rights, then a finding of reasonable cause might well have been warranted. But the evidence of record is hardly definitive on this point. The appellant did not identify the source of the alleged misinformation by name; and, by his own admission, he may not have framed the question clearly enough to avoid any possible confusion. Moreover, the principle that property owners are chargeable with knowledge of appeal deadlines and requirements would seem especially applicable to an experienced real estate investor such as Mr. Johnson.

Finally, in all likelihood, the duration of the county board’s regular annual session would have been specified in a notice published pursuant to Tenn. Code Ann. section 67-5-508(a)(2) *after* the time of Mr. Johnson’s contact. Of course, even avid readers may pay little heed to that kind of notice in their local newspaper; but as the administrative judge has previously observed, “the intended purpose of such notice would be largely frustrated if it were deemed to be effective only against those persons who actually read it.” Flat Iron Partners, LP (Tipton County, Tax Year 2005, Initial Decision and Order, May 26, 2006); *affirmed* by Assessment Appeals Commission in Final Decision and Order, October 17, 2006.

Order

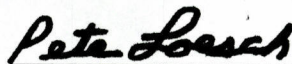
It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.²

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 5th day of January, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Wreford Johnson
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

JOHNSON.DOC

²Mr. Palmer testified that he would recommend that the Assessor reduce the appraisal of the subject property in tax year 2007 to \$52,000.